

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE:	)	
INTEL CORP. MICROPROCESSOR	)	
ANTITRUST LITIGATION	)	MDL Docket No. 05-1717-JJF
	)	
PHIL PAUL, on behalf of himself	)	
And all others similarly situated,	)	
	)	
Plaintiffs,	)	Civil Action No. 05-485-JJF
v.	)	
	)	CONSOLIDATED ACTION
INTEL CORPORATION,	)	
	)	
Defendant.	)	

NOTICE OF SUBPOENA

TO: Counsel of Record  
(Per the Attached Service List)

PLEASE TAKE NOTICE that, pursuant to Rules 26, 30(b)(6) and 45 of the Federal Rules of Civil Procedure, on October 9, 2007, the attached subpoena was served on **Tech Data Corporation**, c/o Eric Adams, Shutts & Bowen LLP, Wachovia Center, 100 S. Ashley Drive, Suite 1500, Tampa, Florida 33602. By and through their undersigned attorneys, the Plaintiffs and Defendant in this above-captioned matters will take the deposition upon oral examination by stenographic means of third-party Tech Data Corporation on November 2, 2007, at 10 a.m. at the offices of Tech Data Corporation in Tampa, Florida, in a room capable of video-conferencing, or at another location mutually agreed upon by the parties. Pursuant to Fed.R.Civ.P.30(b)(6), Tech Data Corporation shall produce a designated representative or representatives, as may be

required, to testify on behalf of Tech Data Corporation concerning the topics identified in Schedule A attached hereto.

PLEASE TAKE NOTICE that the deposition taken pursuant to this Notice will be recorded by stenographer. The deposition will continue from day-to-day, excluding Sundays and court-recognized holidays, until the examination is completed. Counsel for all parties is invited to attend and participate.

Dated: October 9, 2007

Respectfully submitted,

PRICKETT, JONES & ELLIOTT, P.A.

/s/ Laina M. Herbert

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*Co-Lead and Interim Counsel for Plaintiffs*

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the  
UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

In Re Intel Corp. Microprocessors Antitrust Litig.;

## SUBPOENA IN A CIVIL CASE

Phil Paul, et al.;  
Advanced Micro Devices, Inc., and AMD  
International Sales & Service, Ltd.

Case No:<sup>1</sup> 05-485-JJF  
05-441-JJF

MDL Docket No. 1717 JJF  
United States District Court,  
District of Delaware

V.

Intel Corp.  
TO: Tech Data, c/o Eric Adams, Esq.  
Shutts & Bowen LLP  
100 S. Ashley Drive, Suite 1500  
Tampa, FL 33602

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

5350 Tech Data Drive, Clearwater, FL 33760

DATE AND TIME

November 2, 2007

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

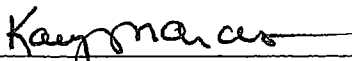
PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR

DATE



Plaintiff Attorney

October 9, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Karen J. Marcus 1050 30th Street, NW  
FINKELSTEIN THOMPSON, LLP Washington, D.C. 20007 (202-337-8000)

(See Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

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PROOF OF SERVICE

---

DATE

PLACE

SERVED

---

SERVED ON (PRINT NAME)

MANNER OF SERVICE

---

SERVED BY (PRINT NAME)

TITLE

---

DECLARATION OF SERVER

---

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

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SIGNATURE OF SERVER

---

ADDRESS OF SERVER

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## Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

## (B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Schedule A

DEFINITIONS

1. For purposes of this deposition, "MICROPROCESSOR" means general purpose microprocessors using the x86 instruction set (e.g., Sempron, Athlon, Turion, Opteron, Celeron, Pentium, Core, Core Duo, and Xeon).
2. For purposes of this deposition, "COMPUTER SYSTEM" means any product that utilizes a MICROPROCESSOR including, without limitation, desktop computers, notebook computers, workstations, and servers.
3. INTEL" refers to Intel Corporation, Intel Kabushiki Kaisha, and any of their present or former subsidiaries, affiliates, parents, assigns, predecessor or successor companies and divisions thereof.
4. "AMD" refers to Advanced Micro Devices, Inc., AMD International Sales and Service Ltd., and any of their present or former subsidiaries, affiliates, parents, assigns, predecessor or successor companies and divisions thereof.
5. For purposes of this deposition, "FINANCIAL INDUCEMENT" means any payment, subsidy, rebate, discount, Intel inside funds, E-CAP (exceptions to corporate approved pricing), Market Development Funds ("MDF"), "meeting competition" or "meet comp" payments, "depo" payments, program monies, AMD Advantage payments, or any advertising or pricing support on MICROPROCESSORS or on any COMPUTER SYSTEM containing an AMD or INTEL MICROPROCESSOR.

**DEPOSITION TOPICS**

Pursuant to Rule 30(b)(6), Tech Data Corporation shall designate and produce for deposition one or more of its officers, directors, managing agents, or other persons to testify on its behalf concerning the following subject matters:

1. The data stored in Tech Data Corporation's sales transaction database, as well as issues regarding the i) source of the sales transaction data; ii) features of the sales transaction database; functions of the sales transaction database; observations in the sales transaction data; and fields in the sales transaction database; iii) scope of the sales transaction database; international sales in the sales transaction database; date range of the data included in the sales transaction database; products included in the sales transaction database; and availability of additional sales transactions data. This topic includes, but is not limited to, the Sales Transaction Data questions raised in the Parties' April 24, 2007 letter to Tech Data Corporation, of which a copy is attached hereto as Exhibit A.
2. The data stored in Tech Data Corporation's purchase transaction database, as well as issues regarding the i) source of the purchase transaction data; ii) features of the purchase transaction database; functions of the purchase transaction database; observations in the purchase transaction data; and fields in the purchase transaction database; iii) scope of the purchase transaction database; international purchases in the purchase transaction database; date range of the data included in the purchase transaction database; products included in the purchase transaction database iv) availability of additional



purchase transactions data. This topic includes, but is not limited to, the Purchase Transaction Data questions raised in the Parties' April 24, 2007 letter to Tech Data Corporation.

3. The data stored in Tech Data Corporation's End User database, as well as issues regarding the i) source of the End User data; ii) features of the End User database; functions of the End User database; observations in the End User data; and fields in the End User database. This topic includes, but is not limited to, the End User Data questions raised in the Parties' April 24, 2007 letter to Tech Data Corporation.
4. The data stored in Tech Data Corporation's Warehouse Code database, as well as issues regarding the i) source of the Warehouse Code data; ii) features of the Warehouse Code database; functions of the Warehouse Code database; observations in the Warehouse Code data; and fields in the Warehouse Code database. This topic includes, but is not limited to, the Warehouse Code Data questions raised in the Parties' April 24, 2007 letter to Tech Data Corporation.
5. The data stored in Tech Data Corporation's Order Source Code database, as well as issues regarding the i) source of the Order Source Code data; ii) features of the Order Source Code database; functions of the Order Source Code database; observations in the Order Source Code data; and fields in the Order Source Code database.
6. The manner in which the records of any FINANCIAL INDUCEMENTS provided by manufacturers, vendors, AMD, and INTEL to Tech Data

Corporation, in relation to MICROPROCESSOR or COMPUTER SYSTEM transactions, are stored.

7. The manner in which the records of any FINANCIAL INDUCEMENTS provided by Tech Data Corporation to its customers (e.g. corporate customers, Retailers, Resellers (including Value-Added Resellers)), in relation to MICROPROCESSOR or COMPUTER SYSTEM transactions, are stored.
8. The effect, if any, that FINANCIAL INDUCEMENTS had on Tech Data's sales transaction data, purchase transaction data, End User Data, or Warehouse Code data.

***EXHIBIT A***



April 24, 2007

VIA ELECTRONIC AND FIRST CLASS MAIL

Teresa Kennedy, Esq.  
Legal Department  
**Tech Data Corporation**  
5350 Tech Data Drive/ C1-7  
Clearwater, Florida 33760

RE: *In re Intel Corp. Microprocessor Antitrust Litigation* (MDL No. 1717-JJF)  
*Phil Paul v. Intel Corp.* (C.A. No. 05-485-JJF)

Dear Ms. Kennedy:

Thank you for providing the parties with an extract of Tech Data's dataset. The parties have reviewed the transactional data production and have some follow up questions that will allow us to better understand the data. We would appreciate your help in answering the questions below. Also, if Tech Data is able to provide the parties with a description of each field in each of the datasets (in the form of a data dictionary or some another form) then the field descriptions may answer some of the parties' questions.

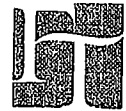
**Sales Transaction Data**

1. Does each individual line in the sales data represent a single transaction? If a transaction invoice in the sales data has multiple items, how are those items reflected in the data set? At which fields can we look to determine which line items form a single transaction?
2. In the sales data, there are items listed under the field IC\_ITEM\_DESC\_1 where it is unclear whether it is an x86 processor or a product which contains an x86 processor. Is there a method or field in the database that would allow us to determine whether a product listed in the IC\_ITEM\_DESC\_1 field is an x86 processor or a product that contains an x86 processor?
3. How is a unique product defined in the sales data?
4. What is the purpose of having two item description fields (IC\_ITEM\_DESC\_1 and IC\_ITEM\_DESC\_2)?

Letter to Tech Data Corporation

April 24, 2006

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5. Please describe the following WAREHOUSE\_NUMBER codes: (a) G1 through G6; (b) H5; (c) L1 through L6; (d) M5; (e) Q1 through Q6; and (f) R3, R4, and R6.
6. There are several observations where the SHIP\_TO\_STATE field does not appear to include a two character U.S. state abbreviation. For example, there are blank observations, numeric values (e.g., 91), and alpha and numeric values (e.g., H6). Please explain how we should be interpreting these observations.
7. Is the CUST\_NAME field unique not only to a single entity customer, but also to a customer with multiple entities, (e.g., divisions and subsidiaries)? If not, is there a data field available in the data or that can be provided which would allow us to identify divisions and subsidiaries that are associated with a parent company?
8. Please explain the significance of observations where the CUST\_NAME field is different from the SHIP\_TO\_NAME field for a given transaction?
9. Are the WAREHOUSE\_NUMBER, IC\_PU\_UNIT\_COST, IC\_ITEM\_NO, IC\_ITEM\_DESC\_1, and IC\_ITEM\_DESC\_2 fields the same in both the sales data and purchase data?
10. Please describe the information contained in the IC\_PU\_UNIT\_COST, FRONT\_END\_GP (\$) and BACK\_END\_GP (\$) fields. Please explain how these fields are calculated.
11. Is the IC\_PU\_UNIT\_COST the unit acquisition cost for the particular SKU (IC\_ITEM\_NO) sold in a given transaction? If not, what exactly does this field represent and how is it calculated?
  - a. Is the IC\_PU\_UNIT\_COST net of all adjustments such as credits, debits, returns, discounts, and rebates? If not, what types of adjustments are *not* subtracted from this field? If IC\_PU\_UNIT\_COST is net of such adjustments, how can these adjustments be identified in the data? If they cannot be identified in the data as it is presently produced, can additional data be provided that would allow us to identify these types of adjustments?
  - b. Please explain what the NetUnits field represents – is this the number of units sold? Does the NetUnits field reflect the number of individual x86 processors sold? If not, how can we determine from the NetUnits field the number of individual microprocessors sold in a particular transaction?

Letter to Tech Data Corporation  
April 24, 2006  
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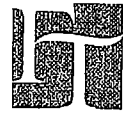


- c. Please explain the significance of observations where the NetUnits field is negative. Additionally, how should we interpret observations where both the NetUnits field and the Net Sales\$ field are negative? If these observations represent returns, how can we link these returns back to the original transactions?
12. Is the Net Sales\$ field net of all adjustments such as credits, debits, returns, discounts, and rebates? If not, what types of adjustments are *not* subtracted from this field? If Net Sales\$ is net of such adjustments, how can these adjustments be identified in the data? If they cannot be identified in the data as it is presently produced, can additional data be provided that would allow us to identify these types of adjustments?
  - a. Please explain the significance of observations where the Net Sales\$ field is negative.
13. Please clarify the meaning of observations that have Net Sales\$, Returns\$ and NetUnits all equal to zero. Similarly, please explain the meaning of observations that have Net Sales\$ and Returns\$ equal to zero, but NetUnits that are greater than zero.
14. What is the meaning of observations that have a SUGG\_RTL\_PRICE value equal to zero?
15. What products are included in this data set? Are these only chips or do they include computers as well? If computers are included, is there a way to identify whether a computer is a notebook, desktop, or server?
16. In the sales data as it is presently produced, is there a way to identify adjustments such as credits, debits, returns, discounts, or rebates? If so, how can we identify these adjustments? If these adjustments cannot be identified in the current data, is there a data field (or fields) that could be provided which would allow us to identify these?
17. Is the sales data limited to transactions occurring in the United States? If Tech Data sells products to customers outside the U.S., we will need Tech Data to include these foreign transactions in the future production of sales data to AMD and Intel.

#### **Purchase Transaction Data**

18. Does each individual line in the purchase data represent a single transaction? If a purchase order in the purchase data has multiple items, how are those items

Letter to Tech Data Corporation  
 April 24, 2006  
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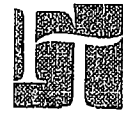
reflected in the data set? At which fields can we look to determine which line items form a single transaction?

19. There are observations that have a VNDR\_NAME equal to "Tech Data" or "Tech Data Canada." We are currently interpreting these observations as internal product transfers, is this correct? Similarly, there are observations that have an IC\_ITEM\_DESC\_1 equal to "Canadian Rotation" and both the PO\_PU\_UNITS\_ORDR and IC\_PU\_UNIT\_COST fields are equal to zero. What do these observations imply?
20. Please describe the following WAREHOUSE\_NUMBER codes: 1) P1 through P6; 2) Q1, Q2, and Q4 through Q6; and 3) S3, S4, and S6.
21. Is the VNDR\_NAME field unique not only to a single entity vendor, but also to a vendor with multiple entities, (e.g., divisions and subsidiaries)? If not, is there a data field available in the data or that can be provided which would allow us to identify divisions and subsidiaries that are associated with a parent company?
22. In the purchase data as it is presently produced, is there a way to identify adjustments such as credits, debits, returns, discounts, or rebates? If so, how can we identify these adjustments? If these adjustments cannot be identified in the current data, is there a data field (or fields) that could be provided which would allow us to identify these?
23. Please explain what the PO\_PU\_UNITS\_ORDR field represents – is this the number of units ordered? Does the PO\_PU\_UNITS\_ORDR field reflect the number of individual x86 processors purchased? If not, how can we determine from the PO\_PU\_UNITS\_ORDR field the number of individual microprocessors purchased in a particular transaction?
  - a. Please explain the significance of observations where the PO\_PU\_UNITS\_ORDR field is equal to zero and the IC\_PU\_UNIT\_COST field is greater than zero.
24. Please explain what the IC\_PU\_UNIT\_COST field represents – is this the per-unit cost of the product purchased? Is this the same as the IC\_PU\_UNIT\_COST field in the sales transaction data?
  - a. If so, how is the IC\_PU\_UNIT\_COST field in the purchase transaction data matched to a sale in the sales transactions data?
  - b. If not, is the IC\_PU\_UNIT\_COST field in the purchase transaction data net of all adjustments such as credits, debits, returns, discounts, and rebates? If not, what types of adjustments are *not* subtracted from this

Letter to Tech Data Corporation

April 24, 2006

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field? If IC\_PU\_UNIT\_COST is net of such adjustments, how can these adjustments be identified in the data? If they cannot be identified in the data as it is presently produced, can additional data be provided that would allow us to identify these types of adjustments?

25. How should we interpret observations where the VNDR\_PROD\_NO field is missing? Is it possible to fill in these missing observations with the correct vendor SKUs?
26. There are 27 entries where the PO\_PU\_UNITS\_ORDR field is greater than zero and IC\_PU\_UNIT\_COST field is equal to zero. Please explain how these observations should be interpreted. In the data set, seven percent of observations have both PO\_PU\_UNITS\_ORDR and IC\_PU\_UNIT\_COST equal to zero as well as a missing IC\_ITEM\_NO. Please explain how these observations should be interpreted.

#### End User Data

27. How does the tblAMDIntel-EndUser data (end user data hereafter) relate to the sales and purchase data? Can we match/combine the end user data with the sales and purchase data?
28. Please explain what the CONTRACT\_TYPE field represents? It appears that 99 percent of observations have a missing value in the CONTRACT\_TYPE field. Please explain the significance of these observations. Is there another source for this information that can be provided?
29. In the end user data, approximately 14 percent of the observations have a missing value in the NAME field. Please explain the significance of these observations. Is there another source for this information that can be provided?

#### Warehouse Codes Data

30. In the WarehouseCodes database, please explain the following WAREHOUSE\_NUMBER entries:
  - a. "99"; A1 through A9
  - b. For entries B1 through B9, what does "BAD BOX WH" in the WAREHOUSE\_DESC field refer to?
  - c. For entries C3, C6, and C9, what does "CONFIG WH" in the WAREHOUSE\_DESC field refer to?
  - d. For entries D5 and D6, does "DEFCT MRCH – DFW" and "DEFCT MRCH – FONT" in the WAREHOUSE\_DESC field refer to a defective product returned to a specific warehouse location? If not, please explain how we should be interpreting these WAREHOUSE\_DESC values.



Letter to Tech Data Corporation  
April 24, 2006  
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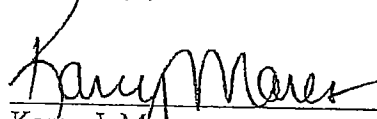


31. It would be helpful to provide a complete description for each of the abbreviations used in the "WAREHOUSE\_DESC" field.

#### Next Steps

We anticipate that many of our questions may be complex and best addressed through a conference call between the parties and Tech Data. Additionally, we have found it particularly helpful in our negotiations with other Distributors to have an accounting or technical person from your client's company, who works with the information in the databases, to participate on the conference call to answer our questions. We would like to schedule a conference call for early next week to discuss the issues outlined above. Please let me know your availability; I can be reached at (202) 337-8000 or by email at [kmarcus@finkelsteinthompson.com](mailto:kmarcus@finkelsteinthompson.com). Thank you again for your cooperation in this matter.

Very truly yours,

  
\_\_\_\_\_  
Karen J. Marcus  
FINKELSTEIN THOMPSON LLP  
Counsel for the Class Plaintiffs

cc: Jennifer Laser, Esq. (Counsel for AMD)  
Richard Ripley, Esq. (Counsel for Intel)

### CERTIFICATE OF SERVICE

I, Laina M. Herbert, hereby certify that on this 9th day of October, 2007, I caused the foregoing **Notice of Subpoena** to be served on the following counsel via electronic filing:

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